

### REMARKS

Claims 48-56 are rejected under 35 USC § 103 (a) as being unpatentable over Yotka et al. (5,458,892) or Meyers et al. (5,236,719).

The Examiner considers in fact that "although Yotka et al. may use highly soluble polyols in example 190-192, applicant's claimed polyols, e.g., lactitol and mannitol are viable alternatives for the highly soluble polyols used in Examples 190-192, according to col. 6 lines 1-5 and col. 9, lines 16-42 of Yotka et al.".

Applicants respectfully disagree.

In fact, Applicants stress again on the fact that the general specification of Yotka (or Meyer et al.) concerns chewing-gums and not boiled sugars; only three examples of boiled sugars are given.

As already indicated in the amendment filed with the RCE, crystallization is not a problem which is taken into consideration in the manufacturing of chewing-gum. Thus, the selection of specific polyols is not necessary.

That's the reason why, numerous examples of polyols are given in the specification, since they are intended to be used in chewing-gums. Nowhere in the Yotka's description it is indicated that those polyols could be used for boiled sugar. But, on the contrary it is clearly mentioned that the said polyols are used for chewing gums (see col. 6 l. 1-5 l. 16-19).

On the contrary, the selection of polyols is a crucial parameter in the manufacture of boiled sugar. This is illustrated in the attached TEST REPORT.

In said TEST REPORT, boiled sugars have been manufactured inter alia with mannitol alone and with maltitol alone.

With mannitol alone, boiled sugars could not be obtained since the crystallization was immediate.

With maltitol alone, boiled sugars could be formed, however, they were not acceptable because they drastically flow.

Consequently, depending of the polyol used the results in the obtention of boiled sugars are very different and in both examples the obtained boiled sugars are not satisfactory.

According to example 192, maltitol is used with pyrodextrin to prepare boiled sugar, however, the result is not satisfactory since, as indicated in the specification at page 7, the Yotka's boiled sugars present "the necessity to be individually wrapped in order to restrict said absorption of water" and as confirmed by the results obtained in the TEST REPORT.

In fact, as indicated in Mr. Ribadeau-Dumas's DECLARATION UNDER RULE 132, "using a composition (composition C) of a hydrogenated pyrodextrin LAB 2547 and maltitol, boiled sugars are obtained, however they flow and are sticky".

Consequently, the person of skilled in the art in order to improve the boiled sugars of example 192, is not incited to use mannitol in lieu of maltitol; since maltitol alone is

worse than mannitol and the improvement resulting from the addition of pyrodextrins to maltitol is not probative as indicated above.

Boiled sugars according to claim 48 are thus inventive in view of Yotka et al. (or Meyers et al.).

Since claims 49 to 53 depend on claim 48, they are also inventive.

The proportions of mannitol and of fractions of hydrogenated dextrins according to claim 54 are not taught nor suggested in Yotka et al. (or Meyers et al.).

Claim 54 is thus inventive. Since claims 55 depends on claim 54, it is also inventive.

It is submitted that the application is now in proper form for allowance and favourable consideration is respectfully submitted.

Respectfully submitted.

Guillaume RIBADEAU-DUMAS et al

By:   
Michael O. Sturm  
Reg. No. 26,078

STURM & FIX LLP  
206 Sixth Avenue, Suite 1213  
Des Moines, Iowa 50309-4076  
Phone: 515-288-9589  
Fax: 515-288-5311



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

RECEIVED  
JUL 30 2003  
TC 1700

In re application of )  
Guillaume Ribadeau-Dumas et al. )  
Serial No.: 09/305,178 ) Art Unit: 1761  
Filed: May 4, 1999 ) Examiner: Corbin, Arthur L.

For : SWEETENING COMPOSITION AND ITS USES

TEST REPORT

According to example 1 of the invention, four types of boiled sugars are prepared.

The different compositions are given in the following table:

| Composition | A    | B   | C   | D    |
|-------------|------|-----|-----|------|
| Mannitol    | 100% | 30% |     |      |
| Maltitol    |      |     | 50% | 100% |
| LAB 2547    |      | 70% | 50% |      |

LAB 2547 is "Nutriage FB hydrogenated" marketed by ROQUETTES Frères which is a hydrogenated pyrodextrin with a molecular weight MW of 4,500.

- Composition A, immediately crystallises when poured on the marble. An irregular and white mass is thus obtained, which does not allow the preparation of separated boiled sugars.
- Composition B is heated to about 140°C and allow the formation of separated boiled sugars.
- Composition C is heated to about 150°C and allow the formation of separated boiled sugars.

- With composition D, the obtained boiled sugars which seem correct initially drastically flow after 10 day-storage.


Boiled sugars obtained with Compositions B and D were photographed as soon as they were obtained (respectively photographs 2 and 5).

All the obtained boiled sugars have been stored during 10 days at 20% and relative humidity and then photographed (photographs 1, 3, 5 and 6 correspond respectively to the boiled sugars obtained with Composition A, B, C and D).

The corresponding photos are presented in the Appendix C (herewith attached).

Respectfully submitted.

Guillaume RIBADEAU-DUMAS et al

By:   
Michael O. Sturm  
Reg. No. 26,078

STURM & FIX LLP  
206 Sixth Avenue, Suite 1213  
Des Moines, Iowa 50309-4076  
Phone: 515-288-9589  
Fax: 515-288-5311